

to resurvey said land, whether the same consists of one or several tracts or parts of tracts, and may add any contiguous vacancy thereto.

While a warrant of re-survey gives the holder a prior right according to its seniority, such holder must comply with the rules of the land office, and if, without objection, he allows a party to whom a later warrant has been issued to acquire a patent, his interest is lost. "Contiguous vacancy" construed in this connection. *Steyer v. Hoyer*, 12 G. & J. 234.

The right to a warrant of re-survey to include contiguous vacancy, is incident to every legal title; it has no application to an equitable interest. When the contiguous vacancy is not included in a subsequent conveyance. *Hughlett's Case*, 3 Bl. 475; *Hoffman v. Johnson*, 1 Bl. 103.

A patent will not be granted under a warrant of re-survey unless the land is contiguous, though the survey may be corrected. *Wilson v. Markle*, 4 Md. Ch. 535; *Buckingham v. Dorsey*, 1 Md. Ch. 32; *Baker v. Naylor*, 4 Md. Ch. 543.

If, however, the patent has been granted, it will not be vacated because the land was not contiguous, or because the applicant had no legal title. *Buckingham v. Dorsey*, 1 Md. Ch. 32.

Where a warrant of re-survey is issued, the applicant and his assigns acquire an equitable interest in the contiguous vacancy; *contra*, however, as to vacant land separated from the original tract by an elder survey and included in another grant subsequent to the date of said warrant. *Howard v. Cromwell*, 1 H. & J. 118; *Howard v. Cromwell*, 4 H. & McH. 329.

If vacant land, not contiguous, is included in the certificate of survey, it is not notice of the location of the warrant until the certificate is returned to the land office. *Hammond v. Warfield*, 2 H. & J. 151.

If a party after applying for a warrant of re-survey, parts with his title, his warrant of re-survey loses its effect as such, but may operate as a common warrant. *Twigg v. Jacobs*, 4 Md. Ch. 541. See also *Buckingham v. Dorsey*, 1 Md. Ch. 32; *Lee v. Hoyer*, 1 Gill, 188.

A certificate returned on a warrant of re-survey, will not sustain ejectment. *Jenifer v. Baker*, 1 H. & McH. 57; *Seward v. Hicks*, 1 H. & McH. 22.

The office of a warrant of re-survey. *Hoffman v. Johnson*, 1 Bl. 103.

See notes to secs. 32 and 39.

An. Code, 1924, sec. 29. 1912, sec. 30. 1904, sec. 30. 1888, sec. 28. 1839, ch. 34, sec. 1. 1841, ch. 333. 1854, ch. 322, sec. 1.

29. Any person entitled to lands in fee simple and being in possession thereof and not desiring to add contiguous vacancy may obtain a warrant of resurvey from the land office, and it shall not be necessary in such warrant to state the name of the tract or tracts of land to be resurveyed; and the surveyor of the county to whom such warrant shall be directed shall survey the lands to be affected thereby according to the possession and holding of the person obtaining such warrant, or those under whom he claims for the last twenty years, and shall take proof of such possession and holding.

When depositions under a warrant of re-survey are evidence in a later suit. To what matters the proof may extend. Caution money. Priority between and elder and junior survey. *Stewart v. Mason*, 3 H. & J. 507.

Special warrant of re-survey obtained under this section—see notes to sec. 48. *Tyler v. Cedar Island Club*, 143 Md. 216.

For cases involving construction of act of 1839, ch. 34, in connection with act of 1818, ch. 90, see *Hoyer v. Swann*, 5 Md. 237; *Mitchell v. Mitchell*, 1 Md. 54.

See notes to secs. 28 and 32.

An. Code, 1924, sec. 30. 1912, sec. 31. 1904, sec. 31. 1888, sec. 29. 1854, ch. 322, sec. 2. 1912, ch. 595.

30. The surveyor before he executes any warrant issued under the preceding section (29) shall give thirty days' notice to the owners or occupants of all the adjacent lands, if the same be occupied, and if the same be not occupied and any of the owners do not reside in the county or city where the lands lie, then to the owners of the said adjacent lands, who may reside in the county or city where the lands lie, and if the adjacent lands be occupied and the owners do not reside in the county or city, the surveyor shall give at least one month's notice prior to the time of the beginning of